CIMB Bank Bhd & Anor v Tan Hoo Eng and another appeal

COURT OF APPEAL (PUTRAJAYA) — CRIMINAL APPEAL NOS A-05–202–05 OF 2021 AND A-05–203–05 OF 2021
HANIPAH FARIKULLAH, NOR BEE ARIFFIN AND AHMAD NASFY YASIN JJCA
18 DECEMBER 2023

Civil Procedure — Contempt of court — Committal proceedings — Whether alleged failure of bank to comply with court order was not a criminal contempt — Whether fact that order was made during hearing of criminal matter did not necessarily make alleged failure to comply with order a criminal contempt — Whether breach of court order was usually regarded as civil contempt — Whether appellants were correct in treating their appeal against committal proceedings initiated against them by opposing party as a civil matter — Whether appeal records and memorandum of appeal filed by appellants on the premise that it was a civil appeal was proper and complied with the Rules of Court

In April and May of 2014, the respondent's accounts with the first appellant ('CIMB') were frozen vide two freezing orders made pursuant to s 44 of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 ('the AMLATFA'). Before the freezing orders expired, the public prosecutor ('PP') issued a seizure order under s 50 of the AMLATFA directing CIMB to seize the respondent's accounts with the bank. In July 2020 the High Court ordered that the respondent was free to utilise her properties that were seized by the PP. Immediately upon issuance of that order, the respondent's solicitor served a copy thereof on CIMB and informed the bank that the freezing orders had been set aside and that the respondent was free to deal with her accounts. CIMB applied to seek clarification from the court as to whether the July 2020 order also extinguished the s 50 seizure order as the order made no mention of it. The High Court judge ('HCJ') ruled that as CIMB was not named as a party in the July 2020 order, it had no locus standi to seek clarification. The HCJ, however, remarked that the July 2020 order was intended to also set aside the s 50 seizure order. Immediately following the 'clarification' hearing, CIMB released the respondent's accounts. The respondent's solicitor, however, notified CIMB that if it did not tender an unreserved apology within seven days to the HCJ who made the July 2020 order, committal proceedings would be commenced against CIMB for failing to comply with the July 2020 order when it was served upon it. CIMB immediately tendered a written apology to the HCJ concerned but by then the respondent had already obtained leave to commence committal proceedings against the appellants. The HCJ dismissed the appellants' application to set aside the grant of that leave resulting in the instant appeals against that

decision. Treating the matter as a civil appeal, the appellants filed and served on the respondent the appeal records and memorandums of appeal. However, when the matter came up for case management before the Court of Appeal's deputy registrar ('DR'), the latter pointed out that the appellants' appeal records were inapplicable as the appeals originated from criminal proceedings and therefore the appellants should use the appeal records that were prepared by the court. The DR directed the appellants to file and serve their petitions of appeal before the next case management date on 11 August 2021. The appellants complied with the DR's directions. The respondent, however, raised a preliminary objection that the petitions of appeal filed by the appellants were grossly out of time for failing to comply with r 65(1) of the Rules of the Court of Appeal 1994 and s 53(1) of the Courts of Judicature Act 1964 (which essentially required the petitions of appeal to be filed within ten days of receipt of the appeal records from the court appealed from). This forced the appellants to apply for abridgement of time (vide encls 39 and 45) to regularise their petitions of appeal in order for the instant appeals to be accepted as valid and proper.

Held, unanimously striking out encls 39 and 45 and directing the appeal records that were originally filed by the appellants on 16 June 2021 to be used in the hearing of both the instant appeals:

(1) This court was of the view that the committal proceedings initiated against the appellants for alleged breach of the July 2020 High Court order was not a criminal contempt, merely because it arose from criminal proceedings. A breach of a court order was usually regarded as a civil contempt. A criminal contempt was where the public prosecutor initiated the action or where the contempt was in the face of the court in the sense that the conduct in question interfered with the due administration of justice (see paras 41–42).

(2) At best, the respondent's complaint was one of civil contempt which was governed by O 52 of the Rules of Court 2012 ('the ROC'). The mere fact that the contempt complained of emanated from a criminal proceeding did not, without more, make it a criminal contempt. Proceedings for contempt were separate and distinct from the proceedings regarding the main matter before the court, be it civil or criminal. If the contempt proceedings were initiated by an aggrieved or affected party against a party in breach to enforce an order, then it would, with limited exception, be inevitably a civil contempt and the proceedings would be civil in nature and O 52 of the ROC would apply (see para 43).

(3) The appellants were correct in filing the memorandum of appeal and records of appeal in accordance with r 18 of the Rules of the Court of Appeal 1994 (see para 44).

[Bahasa Malaysia summary

Pada April dan Mei 2014, akaun responden dengan perayu pertama ('CIMB') telah dibekukan menurut dua perintah pembekuan di bawah s 44 Akta Pencegahan Pengubahan Wang Haram, Pencegahan Pembiayaan Keganasan dan Hasil daripada Aktiviti Haram 2001 ('AMLATFA'). Sebelum perintah-perintah pembekuan tersebut tamat, pendakwa raya ('PR') mengeluarkan perintah penyitaan di bawah s 50 AMLATFA yang mengarahkan CIMB menyita akaun responden. Pada Julai 2020, Mahkamah Tinggi memerintahkan responden bebas menggunakan hartanya yang disita oleh PR berkenaan. Sejurus selepas Perintah itu dikeluarkan, peguam cara responden telah menyerahkan salinannya kepada CIMB dan memaklumkan kepada bank bahawa perintah pembekuan telah diketepikan dan responden bebas untuk berurusan dengan akaunnya. CIMB memohon untuk mendapatkan penjelasan daripada Mahkamah sama ada perintah Julai 2020 itu juga mengenepikan perintah penyitaan s 50 kerana perintah itu tidak menyebut mengenai perkara itu. Hakim Mahkamah Tinggi ('HMT') memutuskan bahawa memandangkan CIMB tidak dinamakan sebagai pihak dalam perintah Julai 2020, mereka tidak mempunyai locus standi untuk mendapatkan penjelasan tersebut. HMT bagaimanapun, menyatakan bahawa perintah Julai 2020 bertujuan untuk mengenepikan perintah penyitaan s 50. Sejurus selepas pendengaran 'penjelasan' tersebut, CIMB melepaskan akaun responden. Bagaimanapun, peguam cara responden memaklumkan CIMB bahawa sekiranya mereka tidak mengemukakan permohonan maaf dalam tempoh tujuh hari kepada HMT yang membuat perintah Julai 2020, prosiding komital akan dimulakan terhadap CIMB kerana gagal mematuhi perintah Julai 2020 ketika ianya telah diserahkan kepadanya. CIMB segera mengemukakan permohonan maaf bertulis kepada HMT berkenaan namun pada masa yang sama responden telah memperoleh kebenaran untuk memulakan prosiding komital terhadap perayu. HMT menolak permohonan perayu untuk mengenepikan permohonan kebenaran itu dan menyebabkan rayuan ini difailkan terhadap keputusan itu. Menganggap perkara itu sebagai rayuan sivil, perayu memfailkan dan menyerahkan kepada responden rekod rayuan dan memorandum rayuan. Bagaimanapun, apabila perkara itu dibangkitkan ketika pengurusan kes di hadapan timbalan pendaftar Mahkamah Rayuan ('TP'), beliau menegaskan bahawa rekod rayuan perayu tidak boleh digunakan kerana rayuan itu adalah untuk prosiding jenayah dan oleh itu perayu perlu menggunakan rekod rayuan yang telah disediakan oleh mahkamah. TP mengarahkan perayu memfailkan dan menyerahkan petisyen rayuan mereka sebelum tarikh pengurusan kes seterusnya pada 11 Ogos 2021. Perayu mematuhi arahan TP. Bagaimanapun, responden mengemukakan bantahan awal bahawa petisyen rayuan yang difailkan oleh perayu adalah tidak tepat pada masanya kerana gagal mematuhi k 65(1) Kaedah-Kaedah Mahkamah Rayuan 1994 dan s 53(1) Akta Mahkamah Kehakiman 1964 (yang pada dasarnya memerlukan petisyen rayuan difailkan dalam tempoh sepuluh

A hari dari tarikh penerimaan rekod rayuan daripada Mahkamah Rayuan). Hal ini memaksa perayu untuk memohon penangguhan masa (melalui lampiran 39 dan 45) untuk memfailkan petisyen rayuan mereka agar rayuan ini diterima sebagai sah dan wajar.

B **Diputuskan,** sebulat suara membatalkan lampiran 39 dan 45 dan mengarahkan rekod-rekod rayuan yang pada asalnya difailkan oleh perayu-perayu pada 16 Jun 2021 digunakan ketika pendengaran kedua-dua kes rayuan:

C (1) Mahkamah ini berpendapat bahawa prosiding komital yang dimulakan terhadap perayu atas dakwaan melanggar perintah Mahkamah Tinggi Julai 2020 bukanlah penghinaan jenayah, semata-mata kerana ianya timbul dari prosiding jenayah. Pelanggaran perintah mahkamah biasanya dianggap sebagai prosiding komital sivil. Komital jenayah adalah di
D mana pendakwa raya memulakan tindakan atau di mana penghinaan itu berada di hadapan mahkamah yang mana tindakan tersebut mengganggu pentadbiran keadilan yang sewajarnya (lihat perenggan 41–42).

E (2) Tindakan responden adalah salah satu penghinaan sivil yang dikawalselia oleh A 52 Kaedah-Kaedah Mahkamah 2012 ('KKM'). Fakta bahawa penghinaan tersebut berasal dari prosiding jenayah tidak menjadikannya penghinaan jenayah. Prosiding penghinaan adalah berasingan dengan prosiding di hadapan mahkamah, sama ada sivil atau jenayah. Sekiranya
F prosiding penghinaan dimulakan oleh pihak yang terkilan atau terjejas terhadap pihak yang melanggar untuk menguatkuasakan perintah, maka ianya tertakluk dengan pengecualian yang terhad, dan akan menjadi prosiding penghinaan sivil dan A 52 KKM akan terpakai (lihat perenggan 43).

G (3) Perayu adalah betul ketika memfailkan memorandum rayuan dan rekod-rekod rayuan menurut k 18 Kaedah-Kaedah Mahkamah Rayuan 1994 (lihat perenggan 44).]

H **Cases referred to**

Attorney-General v Newspaper Publishing Plc and others [1988] Ch 333, Ch D (refd)

Miller v Miller 652 SE 2d 754, CA (refd)

Tan Sri Dato' (Dr) Rozali Ismail & Ors v Lim Pang Cheong @ George Lim &
I *Ors* [2012] 3 MLJ 458; [2012] 2 CLJ 849, FC (refd)

Uthayakumar a/l Ponnusamy v Abdul Wahab bin Abdul Kassim (Pengarah Penjara Kajang) & Ors [2020] 2 MLJ 259; [2020] 1 CLJ 82, CA (folld)

Uthayakumar a/l Ponnusamy v Abdul Wahab bin Abdul Kassim & Ors [2018] MLJU 1263; [2018] 1 LNS 1333, HC (refd)

Legislation referred to

Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 s 44, 50
Courts of Judicature Act 1964 s 53, 53(1)
Rules of Court 2012 O 52
Rules of Court of Appeal 1994 rr 18, 65(1)
Rules of the High Court 1980 (repealed by Rules of Court 2012) O 52, O 52 r 1(2)(a)(ii)

Appeal from: Criminal Application No AA-44–1–01 of 2020 (High Court, Ipoh)

Shamsul Sulaiman (with Khoo Guan Huat and Melissa Long Lai) (Shean Delamore & Co) for the appellants.
Gurbachan Singh (Bachan and Kartar) for the respondent.

Hanipah Farikullah JCA:

INTRODUCTION

[1] The appellant filed two motions before us (encl 45 in Appeal 202 and encl 39 in Appeal 203) for abridgement of time to file and serve their petition of appeals in order for their appeals to be accepted as valid and proper.

[2] The two motions were filed by the appellant pursuant to a preliminary objection raised by the respondent that the two petitions of appeal filed in both appeals were contrary to r 65(1) of the Rules of Court of Appeal 1994 ('the RCA 1994') and s 53(1) of the Courts of Judicature Act 1964 ('the CJA 1964').

[3] The respondent is the applicant in these committal proceedings. The appellants were cited by the respondent for non-compliance with the court order. The leave to commence the two committal proceedings was granted by the High Court. The appellants filed an application before the High Court to set aside to set aside the leave application but were refused by the High Court. Hence, the appellants appealed to the Court of Appeal.

BACKGROUND FACTS

[4] The background facts leading to the filing of these appeals are as follows.

[5] The respondent's accounts with the first appellant ie CIMB Bank Bhd ('the bank') were frozen vide two freezing orders dated 30 April 2014 and 15 May 2014 respectively, pursuant to s 44 of the Anti-Money Laundering,

A Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 ('the AMLATFA').

[6] Prior to the lapse of the freezing orders, a s 50 of the AMLATFA seizure order dated 24 July 2014 ('s 50 seizure order') was issued by the public B prosecutor directing the bank to seize the respondent's accounts with the bank.

[7] On 23 July 2020, the Ipoh High Court ordered that the respondent is at liberty to utilise her properties that were unlawfully seized by the public C prosecutor.

[8] Vide a letter dated 24 July 2020, the respondent's solicitor served the bank with the court order dated 23 July 2020 in order to inform the bank that both freezing orders were set aside and that the respondent was free to deal with D her accounts.

[9] On 3 August 2020, the bank filed an application for clarification of the 23 July 2020 court order to clarify the ambit of the 23 July 2020 court order as:

E (a) the 23 July 2020 court order only made reference to the s 44 freezing orders as having been set aside (the s 50 seizure order not mentioned); and

(b) the bank was not a party to these subject proceedings and not named as a party to the 23 July 2020 court order. F

[10] At the hearing of the bank's clarification application on 11 August 2020, the learned High Court judge took the position that as the bank was not a party to the proceedings, the bank had no locus standi to seek clarification of G the court order dated 23 July 2020. However, the learned High Court judge did state that the 23 July 2020 court order was intended to also set aside the s 50 seizure order.

[11] Following the feedback from the clarification, on 11 August 2020, the H bank released the respondent's accounts.

[12] The respondent's solicitor, by its letter dated 25 August 2020 to the bank, gave notice that the respondent will not pursue committal proceedings against the bank for failing to comply with the order dated 23 July 2020 if the I bank or its solicitors tender an unreserved apology to the Ipoh High Court judge within seven days.

[13] On 28 August 2020, the bank through its solicitor handed a copy of a letter of apology dated 27 August 2020 and the solicitor's letter dated

28 August 2020 to the learned High Court judge's secretary placing on record that at no time had the bank and/or its solicitors intended to act in breach/contempt of the 23 July 2020 court order and explaining the events that passed since such order.

[14] The respondent had however by such date already filed its ex parte application and obtained leave to commence the first committal proceedings against the appellants on 18 August 2020.

[15] The appellants proceeded to file encl 47 to set aside the order for leave granted for the respondent to commence the first committal proceedings.

[16] The respondent had also obtained leave to commence the second committal proceedings against the appellants on 8 January 2021.

[17] Following that, the appellants proceeded to file encl 71 to set aside the order for leave granted for the respondent to commence the second committal proceedings against the appellants.

[18] Both encls 47 and 71 were heard together and were dismissed by the High Court judge. Following to the dismissal, the appellants filed in this court Appeal 202 against the decision on encl 71 and Appeal 203 against the decision on encl 47.

[19] The appellants then filed encl 45 in Appeal 202 and encl 39 in Appeal 203 to regularise their petitions of appeal filed out of time in order for their appeals to be accepted as valid and proper.

PRELIMINARY OBJECTIONS

[20] On 19 November 2021, the respondent by a *notis bantahan awal terhadap rayuan-rayuan* dated 19 November 2021 (encl 36 in Appeal 202 and encl 30 in Appeal 203) raised a preliminary objection, inter alia, that the petitions of appeal filed by the appellants in both Appeals 202 and Appeal 203 failed to comply with r 65(1) of the RCA 1994 and s 53(1) of the CJA 1964.

THE FACTS LEADING TO THE APPLICATIONS

[21] Following to the filing of Appeal 202 and Appeal 203, the appellants on 16 June 2021, had filed and served on the respondent's solicitors, appeal records for Appeal 202 and Appeal 203 together with the memorandum of appeals relating to both appeals.

[22] On 5 July 2021, at the case management before the Court of Appeal's Deputy Registrar, attended to by solicitors for the appellants and the respondent, the Deputy Registrar directed that:

(a) as appeal records had also already been prepared by the Ipoh High Court (since the appeals originated from a criminal court), the appeal records prepared by the Ipoh High Court would apply to the appeals and the appeal records prepared by the appellants' solicitors were expunged; and

(b) the appellants' solicitors file/serve the petitions of appeal for both appeals containing the appellants' grounds of appeal on/before the next case management on 11 August 2021.

[23] Pursuant to the 5 July 2021 directions, the petitions of appeal were duly filed by the appellants on 11 August 2021.

[24] On 11 August 2021, a case management was held before the Court of Appeal Registrar attended to by solicitors for the appellants and respondent. The Court of Appeal Registrar confirmed the appellants' petitions of appeal in the Court of Appeal filing system and gave directions for filing of written submissions and fixed a hearing date of the appeals.

SUBMISSION OF THE PARTIES

[25] The respondent submitted that the petition of appeals must be filed within ten days upon receipt of the appeal records according to s 53(1) of the CJA 1964. Thus, the petitions of appeal should have been filed by the appellants on 11 July 2021 as the appeal records containing the High Court's ground of judgment were served on 1 July 2021 and the receipt was confirmed by the appellants' counsel on 2 July 2021.

[26] The respondent highlighted that even though the appeals read 'Rayuan Jenayah', the appellants' solicitors have prepared 16 June 2021 appeal records together with memorandum of appeal on their own accord like a civil appeal.

[27] Further, the respondent contended that the appellant's affidavit in support of their motions filed herein contained a serious allegation against the deputy registrar when it was stated that the registrar allegedly directed the appellants' solicitor to file the petition of appeals on/before the next case management date on 11 August 2021, which is way beyond the statutory required ten days time limit. It is argued by the respondent that the appellants' solicitors should have been aware that the deputy registrar cannot override a statutory provision (ie s 53 of the CJA 1964) to grant an extension of time to file petitions of appeal.

[28] Therefore, the respondent submitted that as there are no other explanations as to why the appellants could not file the petition of appeals on or before 11 July 2021, hence, the respondent's application ought to be dismissed.

[29] On the other hand, the appellant contended that the respondent's preliminary objections notice dated 19 November 2021 (which were served on the appellants' solicitors on 22 November 2021, nine days prior to the hearing of Appeal 202 and Appeal 203 on 6 December 2021) of non-compliance with r 65(1) of the RCA 1994 and s 53(1) of the CJA 1964, is an afterthought and an abuse of the court's process.

[30] It is the contention of the appellant that the respondent did not raise any objections to the petitions of appeal:

(a) on the 5 July 2021 case management when directions by the Court of Appeal were given for filing of the petitions of appeal on/before 11 August 2021;

(b) upon receipt of the petitions of appeal on 10 August 2021; and

(c) at any of the subsequent case managements on 11 August 2021 and 6 September 2021.

[31] The appellants also contended that the 16 June 2021 appeal record together with memorandum of appeal were filed based on the civil nature of committal proceedings and appeal against the committal leave orders regardless of the originality of criminal proceedings before the High Court.

[32] It was stressed by the appellants that the memorandum of appeal and the petition of appeal are both identical and were received by the respondent without any objection until three months later vide the notice of preliminary objections dated 19 November 2021.

[33] Therefore, it was submitted for the appellants that the preliminary objections were an afterthought and an abuse of the court's process particularly when the appellants have filed motions to enlarge/abridgement of time with full explanation given on the reasons for the delay.

[34] Whilst maintaining the position that the 16 June 2021 memorandum of appeals were in due compliance with the rules that apply with the petitions of appeal satisfying the administrative requirement for 'Criminal Appeals', the appellants had in the abundance of caution filed this application to enlarge time until 10 August 2021 for filing/service of the petitions of appeal.

A DECISION

[35] It must be noted that Appeal 202 and Appeal 203 arose from the appeals by the appellants against the two decisions of the High Court which granted leave to commence committal proceedings against the appellants.

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[36] Referring to the Federal Court decisions in *Tan Sri Dato' (Dr) Rozali Ismail & Ors v Lim Pang Cheong @ George Lim & Ors* [2012] 3 MLJ 458; [2012] 2 CLJ 849, this court in *Uthayakumar a/l Ponnusamy v Abdul Wahab bin Abdul Kassim (Pengarah Penjara Kajang) & Ors* [2020] 2 MLJ 259; [2020] 1 CLJ 82 states that it is well established that contempt of court can be classified into two distinct categories, that is civil or criminal.

C

[37] In England, the general approach has been that a criminal contempt is an act which so threatens the administration of justice that requires punishment whereas by contrast, a civil contempt involves disobedience of a court order. However, O 52 of the Rules of the High Court 1980 ('the RHC') is inapplicable for contempt in criminal proceedings where the contempt is in the face of the court or consists of disobedience to an order of the court or a breach of an undertaking to the court (see O 52 r 1(2)(a)(ii) of the RHC). One thing is clear, be it civil or criminal contempt, the standard of proof required in either type is the same, which is beyond reasonable doubt.

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[38] Contempt has been reclassified either as (1) a specific conduct of contempt for breach of a particular court order; or (2) a more general conduct for interfering with the due administration or the course of justice. This classification is better explained in the words of Sir Donaldson MR in *Attorney-General v Newspaper Publishing Plc and others* [1988] Ch 333 at p 362:

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> Of greater assistance is the reclassification as (a) conduct which involves a breach, or assisting in the breach, of a court order; and (b) any other conduct which involves an interference with the due administration of justice, either in a particular case or, more generally, as a continuing process, the first category being a special form of the latter, such inference being a characteristic common to all contempts per Lord Diplock in *Attorney-General v Leveller Magazine Ltd* [1979] AC 440 at 449.

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(See *Tan Sri Dato' (Dr) Rozali Ismail & Ors*.)

[39] The difference in classification between civil and criminal contempt was explained by this court in *Uthayakumar* by referring to *Miller v Miller* 652 SE 2d 754 — SC: Court of Appeals 2007, the Court of Appeals of South Carolina, and it would be apposite to quote the relevant passage from that decision, as it is highly persuasive and relevant to the issue at hand:

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> The determination of whether contempt is civil or criminal depends on the

underlying purpose of the contempt ruling. In *Floyd v Floyd*, we provided a comprehensive review of the differences between civil and criminal contempt:

> The major factor in determining whether a contempt is civil or criminal is the purpose for which the power is exercised, including the nature of the relief and the purpose for which the sentence is imposed. The purpose of civil contempt is to coerce the defendant to do the thing required by the order for the benefit of the complainant.
>
> The primary purposes of criminal contempt are to preserve the court's authority and to punish for disobedience of its orders. If it is for civil contempt the punishment is remedial, and for the benefit of the complainant. But if it is for criminal contempt the sentence is punitive, to vindicate the authority of the court.

[40] Equally importantly, this court went on to state that in civil contempt, the party complaining of the breach initiates contempt proceedings; whilst in criminal contempt, the court of its own motion frames the complaint against the alleged contemnor, or the attorney general, or the party with sufficient interest in the subject matter, moves the court.

[41] Following the approach of this court in *Uthayakumar*, we are of the view that the committal proceedings against the appellants are a civil action. A breach of the court orders is usually regarded as civil contempt. A criminal contempt is where the public prosecutor initiates the action or where the contempt is in the face of the court, in the sense that the conduct in question interferes with the due administration of justice (see *Uthayakumar a/l Ponnusamy v Abdul Wahab bin Abdul Kassim & Ors* [2018] MLJU 1263; [2018] 1 LNS 1333).

[42] In light of the above, we are of the view that the application for contempt which is based on the alleged breach of the High Court order dated 23 July 2020 is not a criminal contempt, merely because it arose from criminal proceedings.

[43] We find that it is at best a complaint of civil contempt which is governed by O 52 of the Rules of Court 2012. The mere fact that the contempt complained of emanates from a criminal proceeding does not, without more, make it a criminal contempt. Proceedings for contempt are separate and distinct from the proceedings as regards the main matter before the court, be it civil or criminal. If the contempt proceedings are initiated by an aggrieved or affected party against a party in breach to enforce the order, then, it would with limited exception, be inevitably a civil contempt and the proceedings are civil in nature. Thus, O 52 of the Rules of Court 2012 is applicable.

[44] Hence in our view, the appellants were correct in filing the memorandum of appeal and the records of appeal in accordance with r 18 of the RCA 1994.

CONCLUSION

[45] For the above reasons, we are of the view that encl 45 in Appeal 202 and encl 39 in Appeal 203 for abridgement of time to file petition of appeal are therefore struck off. Each party is to bear their own cost. Consequently, we are directing the appeal records filed on 16 June 2021 to be used in Appeal 202 and Appeal 203.

Order accordingly.

Reported by Ashok Kumar